



1           **appropriately, including, but not limited to, by the entry of a**  
2           **prefiling order.**

3           Order: Dismissing Petition for Writ of Habeas Corpus with Prejudice; and  
4           Denying Certificate of Appealability, filed June 18, 2013 in Case No. CV 13-  
5           4290.

6           Notwithstanding the foregoing, on September 9, 2015, petitioner filed  
7           another habeas petition challenging the same BA362256 conviction (Petition,  
8           paragraphs 1 and 5). As a result, the Court issued an order requiring petitioner to  
9           show cause, if any he had, why he should not be held in civil contempt and  
10          sanctioned appropriately for abuse of the writ. Petitioner did not respond to the  
11          order to show cause.

12          It has been found previously, and is not disputed, that petitioner was  
13          discharged from probation on the conviction entered in BA362256 on September  
14          9, 2010; that that discharge terminated any significant restraint on petitioner  
15          arising from the BA362256 conviction; that petitioner's present incarceration  
16          stems from state criminal convictions distinct from the BA362256 conviction; and  
17          that petitioner's present incarceration does not satisfy the "in custody"  
18          requirement for purposes of any challenge to the BA 362256 conviction. (*See*  
19          Order: Dismissing Petition for Writ of Habeas Corpus with Prejudice; and  
20          Denying Certificate of Appealability, filed June 18, 2013 in Case No. CV 13-  
21          4290.)

22          For the same reasons previously articulated by the Court, this Court lacks  
23          jurisdiction over petitioner's claim because he does not satisfy the "in custody"  
24          requirement of 28 U.S.C. § 2254(a). Therefore, the petition should be summarily  
25          dismissed.

26          Moreover, given that petitioner has been warned that his filing of any  
27          further habeas petitions challenging the conviction in BA362256 would result in  
28          sanctions and given petitioner's disregard of this warning, it is appropriate to

1 require that petitioner obtain permission from this Court before he be allowed to  
2 file any additional challenges to the BA362256 conviction.

3 Therefore, IT IS ORDERED that Judgment be entered dismissing the  
4 instant petition without prejudice.

5 In addition, pursuant to Rule 11(a) of the Rules Governing Section 2254  
6 Cases in the United States District Courts, the Court has considered whether a  
7 certificate of appealability is warranted in this case. *See* 28 U.S.C. § 2253(c)(2);  
8 *Slack v. McDaniel*, 529 U.S. 473-484-85, 120 S. Ct. 1595, 1604 (2000). The  
9 Court concludes that a certificate of appealability is unwarranted and, therefore, a  
10 certificate of appealability is DENIED.

11 In addition, given petitioner's repeated abuse of the writ with respect to the  
12 conviction sustained in BA362256, the Clerk of Court is directed not to accept  
13 further filings of habeas corpus petitions from petitioner challenging the  
14 conviction and/or sentence sustained in BA362256 without payment of a filing fee  
15 and prior authorization from a District Judge or Magistrate Judge issued upon a  
16 showing of evidence supporting a claim.

17  
18 DATED: August 31, 2016



19  
20 STEPHEN V. WILSON  
United States District Judge

21  
22 Presented by:

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24  
25 /S/ FREDERICK F. MUMM  
26 FREDERICK F. MUMM  
27 United States Magistrate Judge  
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